



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 5, 2012

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2012-17665

Dear Ms. Graham:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 469978.

The Mesquite Police Department (the "department") received a request for a specified report. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes such as section 58.007 of the Family Code, which provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). For purposes of subsection 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2). Subsection 58.007(c) is not applicable to information that relates to a juvenile as a complainant, victim, witness, or other involved party and not as a suspect or offender. You contend that some of the submitted information is subject to section 58.007. Upon review, we find you have not demonstrated how the submitted information, which involves an adult suspect, involves juvenile conduct for purposes of section 58.007. Accordingly, the department may not withhold the submitted information under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.101 of the Government Code also encompasses section 261.201 of the Family Code, which provides in relevant part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

(1) any personally identifiable information about a victim or witness under 18 years of age unless that victim or witness is:

(A) the child who is the subject of the report; or

(B) another child of the parent, managing conservator, or other legal representative requesting the information;

(2) any information that is excepted from required disclosure under Chapter 552, Government Code, or other law[.]

Id. § 261.201(a), (k), (l)(1)-(2). Upon review, we find the submitted information was used or developed in an investigation of child abuse under chapter 261 of the Family Code. *See id.* § 261.001(1) (defining “abuse” for purposes of Fam. Code ch. 261), *see also id.* § 101.003(a) (defining “child” for purposes of chapter 261.201). Thus, this information is subject to chapter 261 of the Family Code. We note the requestor is a parent of the child victim listed in the information and is not alleged to have committed the abuse. Therefore, pursuant to section 261.201(k), the information at issue may not be withheld from this requestor on the basis of section 261.201(a). *See id.* § 261.201(k). However, before the department provides any of this information to the requestor, the department must redact any personally identifying information about any other child witnesses. *See id.* § 261.201(l)(1). Accordingly, the department must withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code.¹ In addition, section 261.201(l)(2) states that any information that is excepted from required disclosure under the Act or other law must still be withheld from disclosure. *Id.* § 261.201(l)(2). Accordingly, we will address your remaining arguments against disclosure of the submitted information.

Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country. *See Gov’t Code* § 552.130(a)(1). The department must withhold the driver’s license number you have marked under section 552.130 of the Government Code.

In summary, the department must withhold the identifying information we have marked under section 552.101 of the Government Code in conjunction with section 261.201(l)(1) of the Family Code. The department must withhold the driver’s license number you have

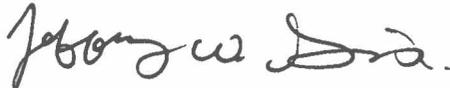
¹As our ruling is dispositive of this information, we need not address your argument against disclosure under section 552.147 of the Government Code.

marked under section 552.130 of the Government Code. The department must release the remaining information.²

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 469978

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the requestor has a special right of access to the information being released. See Fam. Code § 261.201(k). Therefore, if the department receives another request for this same information from a different requestor, it must again seek a ruling from our office.